

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.: 1:22-cv-23232-KMW

GARY CATENAC, AYANA KNOWLES, FRANK
HAMMOND, ALEXANDER OKWALI, and
HARRY GARCIA, individually and as
representatives of a class of participants and
beneficiaries on behalf of the Lennar Corporation
401(K) Plan,

Plaintiffs,

v .

LENNAR CORPORATION,

Defendant.

**DEFENDANT’S RESPONSE TO
PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs continue to argue that this Court should invalidate the arbitration provision in the Lennar Corporation 401(k) Plan (the “Plan”) based on non-binding, out-of-circuit caselaw that does not address the reasoning underlying Judge Scola’s decision in *Holmes v. Baptist Health*, which follows both Supreme Court and Eleventh Circuit precedent by holding that plan-wide monetary relief “is only available to those who bring a representative or class action,” and “as the Eleventh Circuit has already held that a waiver of the right to bring a class action in arbitration is permissible, *the concomitant waiver of remedies associated with class actions is also permissible.*” 2022 WL 180638, at *2-3 (S.D. Fla. Jan. 20, 2022) (emphasis added). This time, Plaintiffs submit *Parker v. Tenneco, Inc.*, No. 23-1857, 2024 WL 3873409 (6th Cir. August 20, 2024). But this decision misses the mark for all the same reasons Defendants have previously explained when addressing Plaintiffs’ other non-controlling caselaw. *See* Dkt. Nos. 23, 33, 36, 38. Because

Plaintiffs provide no authority that meaningfully contends with *Holmes* or the binding Eleventh Circuit and Supreme Court precedent it relies on, this Court should adopt the reasoning in those cases and compel the individual arbitration of Plaintiffs' claims under the governing arbitration agreement.

Date: September 9, 2024

Respectfully submitted,

/s/ Kimberley E. Lunetta

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